UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

JOSEPH A. CARAMADRE, Plaintiff, v. PRUDENTIAL INSURANCE COMPANY OF AMERICA, Defendant.	CASE NO. 1:16-cv-427 Removed from the State of Rhode Island and Providence Plantations Superior Court of Providence County

NOTICE OF REMOVAL

Defendant, THE PRUDENTIAL INSURANCE COMPANY OF AMERICA (incorrectly named as "Prudential Insurance Company of America) ("Prudential" or "Defendant"), by and through its attorneys, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice of Removal with respect to the above-captioned case, which was filed and currently is pending in the State of Rhode Island and Providence Plantations Superior Court of Providence County, Civil Action File Number PC-2016-3159. In support of its Notice of Removal, Defendant states as follows:

Background And Timeliness

1. On July 7, 2016, Plaintiff Joseph Caramadre ("Plaintiff") commenced a civil action against Defendant by filing a Summons and Complaint in the State of Rhode Island and Providence Plantations Superior Court of Providence County, Civil Action File Number PC-2016-3159 (the "Lawsuit"). There are no other parties named in Plaintiff's complaint.

2. Plaintiff served Prudential with a summons in this action on or about July 11, 2016.

3. Because Defendant has filed this Notice of Removal within thirty days of receiving service of process, this Notice of Removal is timely. *See* 28 U.S.C. § 1446(b).

4. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of Plaintiff's Summons and Complaint from the state court action, is attached hereto as **Exhibit 1**. These documents constitute all "process, pleadings, and orders" served on Defendant in the state court action seeking recovery against it.

5. Plaintiff's claims arise out of a group disability insurance policy issued to The American Institute of Certified Public Accountants Trust. (Ex. 1, Compl. ¶ 4, 8.) Plaintiff applied for long-term disability ("LTD") benefits, and Prudential initially approved a $2,000 monthly benefit. (Ex. 1, Compl. ¶ 8.) Prudential subsequently terminated Plaintiff's LTD benefits on October 31, 2014, after finding that Plaintiff did not meet the definition of disability as set forth in the insurance policy. (Ex. 1, Compl. ¶ 9.) Plaintiff now seeks to recover LTD benefits by way of a breach of contract claim, stating that he continues to meet the definition of disability under the policy. (Ex. 1, Compl. ¶¶ 15-27.) Plaintiff also asserts a claim for breach of duty of good faith dealing. (Ex. 1, Compl. ¶¶ 28-45.)

6. Plaintiff seeks compensatory, consequential, treble, and punitive damages as well as costs and attorneys' fees. (Ex. 1, Compl. at Request for Relief.)

This Case Is Removable Based Upon Diversity Jurisdiction

7. Pursuant to 28 U.S.C. § 1441(a), "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant to the district court of the United States for the district and division embracing the place where such action is pending."

8. Pursuant to 28 U.S.C. § 1332(a), "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs, and is between…citizens of different States."

9. In this case, both the "diversity" and "amount in controversy" requirements are met.

The Parties Are Diverse

10. Plaintiff, although currently incarcerated in Ayer, Massachusetts, is a citizen of the State of Rhode Island. (Ex. 1, Compl. ¶ 1.)

11. Section 1332 defines corporate citizenship as follows: "[f]or the purposes of this section and section 1441 of this title . . . a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business . . . ." 28 U.S.C. § 1332(c).

12. Defendant is a corporation incorporated under the laws of the State of New Jersey, and Defendant's principal place of business is the State of New Jersey. Thus, Defendant is a citizen of a state other than Rhode Island. *See* 28 U.S.C. § 1332(c)(1).

13. Because Plaintiff and Defendant are citizens of different states, this case is "between citizens of different states." 28 U.S.C. § 1332(a), (c).

The Amount In Controversy Exceeds $75,000

14. According to the allegations in the Complaint, Plaintiff seeks to recover compensatory damages. (*See* Ex. 1, Compl. at Request for Relief.) Plaintiff received a monthly disability benefit of $2,000.00 until Prudential terminated that benefit effective October 31, 2014. (Ex. 1, Compl. ¶ 10.) As Plaintiff alleges he continues to suffer from his allegedly disabling condition, compensatory damages would encompass 21 monthly payments of $2,000

beginning on November 1, 2014, through the present totaling $42,000. (Ex. 1, Compl. ¶¶ 12, 14.)

15. Plaintiff also seeks "treble damages." (Ex. 1, Compl. at ¶ 27.) Trebling Plaintiff's claim for compensatory damages alone results in an amount in controversy greater than $75,000 (here $126,000.00).

16. Plaintiff further seeks to recover punitive damages in an unspecified amount. Punitive damages are included in calculating the amount in controversy for the purposes of establishing diversity jurisdiction. *See, e.g., Freitas v. First New Hampshire Mortgage Corp.*, No. 98-211ML, 1998 WL 657606, at *6 (D.R.I. July 23, 1998) (noting the parties' agreement "that punitive damages are to be considered in calculating the amount in controversy for purposes of diversity jurisdiction").

17. Although Defendant disputes the viability and accuracy of Plaintiff's claims, it is apparent from the face of the Complaint that the amount in controversy in Count I is at least $75,000, exclusive of interests and costs, and this Court has original jurisdiction over that claim. *See* 28 U.S.C. §§ 1332(a); (c).

18. This action is removable to this Court. 28 U.S.C. § 1441(a), (b).

Venue And Notice

19. Venue is proper in this District because, pursuant 28 U.S.C. § 90(a)(4), this District embraces the State of Rhode Island and Providence Plantations Superior Court of Providence County, the place where the removed action has been pending. 28 U.S.C. § 1441(a).

20. Promptly upon the filing of this Notice of Removal, Defendant shall file a Notice of Filing of Notice of Removal, with a copy of the Notice of Removal, with the State of Rhode Island and Providence Plantations Superior Court of Providence County, and will serve a copy

thereof on Plaintiff via United States mail, pursuant to 28 U.S.C. § 1446(d) and LR Gen 205(c). A copy of this notice is attached hereto as **Exhibit 2**.

Conclusion

21. Based on the foregoing, this Court has original jurisdiction over this action based on diversity of the parties under 28 U.S.C. § 1332; therefore, the Court properly may exercise jurisdiction over this Lawsuit. 28 U.S.C. § 1441(a).

22. Should Plaintiff seek to remand this case to state court, Defendant respectfully asks that it be permitted to brief and argue the issue before any order remanding this case. In the event the Court decides remand is proper, Defendant asks that the Court retain jurisdiction and allow Defendant to file a motion asking this Court to certify any remand order for interlocutory review by the U.S. Court of Appeals for the First Circuit, pursuant to 28 U.S.C. § 1292(b).

WHEREFORE, Defendant requests that the above-described action pending against it be removed to this Court. Defendant also requests all other relief, at law or in equity, to which it justly is entitled.

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DATED: July 29, 2016

Respectfully submitted,

By: */s/ Michael E. Jusczyk*

Michael E. Jusczyk
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Two Seaport Lane, Suite 300
Boston, MA 02210-2028
Telephone: (617) 946-4800
Facsimile: (617) 946-4801
Email: loconnor@seyfarth.com

Attorneys for the Defendant
THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

CERTIFICATE OF SERVICE

I hereby certify that, on the 29th day of July, 2016, I filed this document through this Court's electronic filing system and served this document on Plaintiff through US mail at the following addresses:

Joseph A. Caramadre, #08549-070 (Satellite Camp)
FMC Devens
P.O. Box 879
Ayer, MA 01432

Joseph A. Caramadre
(Home Address)
90 Beechwood Dr.
Cranston, RI 02921

E-mail: joe@eprworld.com

/s/ Michael E. Jusczyk
Michael E. Jusczyk

JS-44 (Rev. 1/16 RI)

CIVIL COVER SHEET

I. (a) PLAINTIFFS Joseph A. Caramadre

(b) County of Residence of First Listed Plaintiff: Providence
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Joseph A. Caramadre, #08549-070 (Satellite Camp)
FMC Devens
P.O. Box 879
Ayer, MA 01432
joe@eprworld.com

DEFENDANTS The Prudential Insurance Company of America

County of Residence of First Listed Defendant: Essex County
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
Michael E. Jusczyk
Seyfarth Shaw LLP
Seaport East, Two Seaport Lane, Suite 300
Boston, MA 02210-2028
Telephone: (617) 946-4800

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- [ ] 1 U.S. Government Plaintiff
- [ ] 3 Federal Question (U.S. Government Not a Party)
- [ ] 2 U.S. Government Defendant
- [X] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	[X] 1	[ ] 1	Incorporated *or* Principal Place of Business In This State	[ ] 4	[ ] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated *and* Principal Place of Business In Another State	[ ] 5	[X] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Admiralty
- [ ] 120 Marine (Other)
- [ ] 340 Marine(Injury to Seamen)

Admin/Agency Appeals Other
- [ ] 890 Other Statutory Actions (APA Appeals, IDEA Appeals, Other)

Bankruptcy
- [ ] 422 Appeal 28 U.S.C. § 158
- [ ] 423 Withdrawal 28 U.S.C. § 157

Banks and Banking
- [ ] 140 Negotiable Instruments
- [ ] 430 Banks and Banking

Business and Commercial

Anti-trust
- [ ] 410 Anti-Trust

Construction Contracts
- [ ] 130 Miller Act
- [ ] 190 Other Contracts

Securities Law & Stockholder Suits
- [ ] 160 Stockholders' Suits
- [ ] 850 Securities/ Commodities/ Exchange

Other - Business/Comm.
- [ ] 196 Franchise
- [ ] 490 Cable/Satellite TV

Consumer Credit
- [ ] 190 Other Contracts
- [ ] 371 Truth in Lending
- [ ] 480 Consumer Credit

Civil Rights

Constitutional Law
- [ ] 950 Constitutionality of State Statutes
- [ ] 440 Other Civil Rights (Constitutionality of Federal Statues)

Elections and Voting
- [ ] 400 State Reapportionment
- [ ] 441 Voting

Other - Civil Rights
- [ ] 440 Other Civil Rights
- [ ] 443 Housing/ Accommodations
- [ ] 446 Americans with Disabilities
- [ ] 448 Civil Rights- Education

Copyright & Trademark (Intellectual Property)
- [ ] 820 Copyright
- [ ] 840 Trademark

Employment and Employee Benefits

Employment Discrimination
- [ ] 442 Employment
- [ ] 445 Americans with Disabilities- Employment
- [ ] 440 Other -Civil Rights

ERISA
- [ ] 791 Employment Ret. Inc. Security Act

Other Employment Benefits
- [ ] 190 Other - Contract
- [ ] 442 Other - Employment

Environmental Law
- [ ] 893 Environmental Matters

Immigration
- [ ] 462 Naturalization App.
- [ ] 465 Other Immigration Actions

Indian Law
- [ ] 890 Other Statutory Actions

Insurance
- [X] 110 Insurance Contract

Labor and Occupational Safety
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Management Relations Act
- [ ] 740 Railway Labor Act
- [ ] 751 Labor: Family and Medical Leave Act
- [ ] 790 Other Labor Litigation

Miscellaneous Civil Cases
- [ ] 150 Recovery of Overpayment and Enforcement of Judgment (Collections)
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (excluding Veterans)
- [ ] 153 Recovery of Overpayment of Veterans' Benefits
- [ ] 370 Other Fraud
- [ ] 375 Other Statutes: False Claims Act
- [ ] 376 Other Statutes: Qui Tam (31 USC 3729(a))
- [ ] 440 Other Civil Rights (Immigration/Deportation)
- [ ] 450 Commerce
- [ ] 460 Deportation
- [ ] 625 Drug related seizure of property

Miscellaneous Civil Cases Continued
- [ ] 690 Other (Forfeiture/Penalty)
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS-Third Party (26 U.S.C. § 7609)
- [ ] 890 Other Statutory Actions
- [ ] 891 Agricultural Acts
- [ ] 895 Freedom of Information Act
- [ ] 896 Other Statues: Arbitration
- [ ] 899 Other Statutes: Admin. Procedures Act/Review/ Appeal of Agency Decision

Patents (Intellectual Property)
- [ ] 830 Patents

Prisoner Petitions

HABEAS CORPUS
- [ ] 463 Alien Detainee(Habeas)
- [ ] 510 Motions to Vacate Sentence (Habeas)
- [ ] 530 General (Habeas)
- [ ] 535 Death Penalty (Habeas)

OTHER
- [ ] 540 Mandamus and Other
- [ ] 550 Civil Rights (1983)
- [ ] 555 Prison Conditions(1983)
- [ ] 560 Civil Detainee-Cond. of Confinement

Real and Personal Property
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent, Lease and Ejectment
- [ ] 240 Torts to Land
- [ ] 290 All other Real Property
- [ ] 380 Other Personal Property Damage

RICO
- [ ] 470 RICO

Social Security
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

Torts and Personal Injury

Mass Torts
- [ ] 360 Other Personal Injury

Products Liability
- [ ] 195 Contract Product Liability
- [ ] 245 Tort Product Liability
- [ ] 315 Airplane Product Liability
- [ ] 345 Marine Product Liability
- [ ] 355 Motor Vehicle Product Liability
- [ ] 365 Personal Injury Product Liability
- [ ] 385 Property Damage Product Liability

Professional Malpractice
- [ ] 362 Personal Injury - Med. Malpractice

Motor Vehicle Accidents/Slip and Fall
- [ ] 350 Motor Vehicles
- [ ] 360 Other Personal Injury

Other Torts and Personal Injury incl. Asbestos cases
- [ ] 310 Airplane
- [ ] 320 Assault, Libel and Slander
- [ ] 330 Federal Employers' Liability
- [ ] 360 Other Personal Injury (Fed. Tort Claims Act)
- [ ] 360 Other Personal Injury
- [ ] 367 Personal Injury: HealthCare/Pharmaceutical Personal Injury Product Liability
- [ ] 368 Asbestos Personal Injury

CONTINUED ON REVERSE SIDE

V. ORIGIN (Place an "X" In One Box Only)

☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (Specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge From Magistrate Judgment
☐ 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**): 28 USC Section 1332

Brief description of cause: breach of contract claim seeking long-term disability benefits

VII. REQUESTED IN COMPLAINT

☐ Check if this is a Class Action Under F.R.C.P. 23

DEMAND $

JURY DEMAND: ☐ Yes ☒ No
(Check YES only if demanded in complaint)

VIII. RELATED CASE(S) IF ANY

JUDGE ______________________ DOCKET NUMBER ______________________

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

July 29, 2016
Date

/s/ Michael E. Jusczyk
Signature of Attorney of Record

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
Authority for Civil Cover Sheet

The **JS-44** civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.

IV. NATURE OF SUIT: Place an X in the appropriate box. Make sure to select the Nature of Suit from the category which best describes the primary cause of action found in your complaint. You must select only one nature of suit.

VIII. RELATED CASES, IF ANY: This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

FOR OFFICE USE ONLY

Receipt # ________ Amount ________ Applying IFP ________ Judge ____________ Mag. Judge ____________

Exhibit 1

Exhibit 1

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

SUMMONS

	Civil Action File Number PC-2016-3159
Plaintiff Joseph A Caramadre v. **Defendant** Prudential Insurance Company Of America	**Attorney for the Plaintiff or the Plaintiff** Joseph A Caramadre **Address of the Plaintiff's Attorney or the Plaintiff** 90 BEECHWOOD DR CRANSTON RI 02921
Licht Judicial Complex Providence/Bristol County 250 Benefit Street Providence RI 02903 (401) 222-3250	**Address of the Defendant** 751 Broad Street Attention Margaret Foran Newark NJ 07102

TO THE DEFENDANT, Prudential Insurance Company of America:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 7/7/2016.	/s/ Henry Kinch Clerk

Witness the seal/watermark of the Superior Court

RECEIVED
JUL 14 2016
Legal Process Unit
Law Dept.

7-11-16
Peggy Foran

SC-CMS-1 (revised July 2014)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

Plaintiff Joseph A Caramadre v. **Defendant** Prudential Insurance Company Of America	**Civil Action File Number** PC-2016-3159

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, Prudential Insurance Company of America, by delivering or leaving said papers in the following manner:

☐ With the Defendant personally.

☐ At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person of suitable age and discretion ______________________
Address of dwelling house or usual place of abode ______________________
____
Age ______
Relationship to the Defendant ______________________

☐ With an agent authorized by appointment or by law to receive service of process.
Name of authorized agent ______________________
If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.
____

☐ With a guardian or conservator of the Defendant.
Name of person and designation ______________________

☐ By delivering said papers to the attorney general or an assistant attorney general if serving the state.

☐ Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.
Name of person and designation ______________________

SC-CMS-1 (revised July 2014)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.
Name of person and designation ______________________________

☐ By leaving said papers at the office of the corporation with a person employed therein.
Name of person and designation ______________________________

☐ By delivering said papers to an agent authorized by appointment or by law to receive service of process.
Name of authorized agent ______________________________
If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.
____

☐ I was unable to make service after the following reasonable attempts: ______________________________
____

SERVICE DATE: ____/____/____ Month Day Year	SERVICE FEE $__________

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

____
Signature

State of ____________________
County of ____________________

On this ________ day of ______________, 20____, before me, the undersigned notary public, personally appeared ______________________________ ☐ personally known to the notary or ☐ proved to the notary through satisfactory evidence of identification, which was ______________________________, to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: ______________________
My commission expires: ______________________
Notary identification number: ______________________

SC-CMS-1 (revised July 2014)

SC-CMS-1 (revised July 2014)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS SUPERIOR COURT- PROVIDENCE COUNTY

PC-16-3159

Joseph A. Caramadre, Plaintiff	)
	)
v.	)
	)
Prudential Insurance Company of America, Defendant	)

COMPLAINT

PARTIES, VENUE AND JURISDICTION

1. The plaintiff, Joseph A. Caramadre, has his domicile at Beechwood Drive, Cranston, R.I. He is presently a resident at FMC Devens, Ayer, MA. He is presently an inmate appealing his conviction and sentence, presently pending before the court. He has presented valid claims to prove his innocence.
2. The defendant is Prudential Insurance Company (Prudential). The company, in part, underwrites and sells "long term disability insurance policies" from its office in Philadelphia, PA.
3. Jurisdiction is appropriate in this Court because Prudential has corporate offices in the state of Rhode Island, does business in this state, and therefore has the requisite minimum contacts under relevant sections of the Rhode Island Long Arm Statutes and the amount exceeds $10,000.

BACKGROUND

4. The plaintiff is the named insured in a long term disability policy issued and underwritten by the defendant, Prudential Insurance Company of America.
5. The plaintiff was a practicing attorney and certified public accountant. Over the course

of 25 years he engaged in a course of charitable and philanthropic activity that benefit about 70 charitable organizations and a multitude of other people. This activity lead to the plaintiff to being recognized as a humanitarian and philanthropist by charitable organizations.

6. The plaintiff is married and has three children whose residence is on Beechwood Drive, Cranston, R.I. His wife of 25 years is being directly and adversely impacted by the actions of the defendant in this case.
7. As a consequence of a criminal litigation initiated against him in the United States District Court in Rhode Island, the plaintiff received a sentence of 72 months and 3 years of supervised release. He filed a timely claim of appeal and continues to protest his innocence. Although the First Circuit of Appeals denied his original appeal and, subsequently, an en banc request for reconsideration, the plaintiff also filed a writ of certiorari to the United States Supreme Court. Although that Court, denied his writ, the plaintiff, through his counsel, is presently preparing and researching, a writ of Habeas Corpus pursuant to the provisions of Title 28, Section 2255, and 28 USC 2241.
8. The defendant issued a long term disability income policy to the plaintiff. In exchange, the plaintiff paid the timely premiums associated with the policy. In 2011, the plaintiff became disabled. The plaintiff submitted a claim for monthly disability benefits. After researching the claim, the defendant, concluded that the plaintiff's illness was within the parameters defined in their policy and approved the plaintiff for full disability benefits, and began paying the plaintiff the $2,000 monthly benefit on or around October 31, 2011, pursuant to its policy terms.
9. This complaint deals with the failure of the defendant to pay the plaintiff pursuant to the

terms of the policy and its breach of the policy terms on or around October 31, 2014, the date the defendant stopped paying the plaintiff disability benefits.

10. Because there was a material change in circumstances relative to the medical, physical and emotional condition of the plaintiff, this Court should redress the egregious violations of the terms of the contract and award the plaintiff not only compensatory damages, but also punitive damages. The defendant agreed to pay the plaintiff the disability benefits specified in the policy and did so from approximately October 31, 2011 to October 31, 2014. Their justification for non-payment has absolutely no foundation in law or, in the facts of this case. Indeed, subsequent events only tend to exacerbate the plaintiff's fragile emotional and depressive state.

11. The record in the instant case establishes that the plaintiff received medical and psychiatric care for "Chronic Intractable Depression" with Dr. James Kennedy, M.D. at FMC Devens Camp from January 21, 2014 through presently. (For some inexplicable reason the defendant referred to the doctor as Paul Kennedy, M.D. No such doctor/psychiatrist practices at FMC Devens.)

12. During the foregoing dates the Major Depressive Disorder suffered by the plaintiff did not dissipate, it worsened. One of the more simple and reasonable conclusions is the following: Initially, during the initial assessment on January 21, 2014, the plaintiff was diagnosed with severe depression. However, he expressed hope in his nationally recognized appellate attorneys, since he had informed plaintiff that "He had a very strong case to win the appeal." This did not happen. Again continued meetings with the doctor revealed that, although severely depressed, the plaintiff had a glimmer of hope that his attorney's favorable assessment of his appeal case could result in the plaintiff clearing his

name. After months of waiting, finally on December 7, 2015, the appeals court denied the plaintiff's appeal. This action significantly and substantially contributed to this "Chronic Intractable Depression." Indeed, it aggravated it to a significant degree simply because it served to extinguish hope that he would shortly return to his caring, loving and totally supportive family.

13. The defendant, knowing this, simply ignores it. Instead, they retain the services of an unknown and unidentified "Board Certified" physician. Remarkably, contrary to acceptable medical and psychiatric standards, this "psychiatric reviewer" never even met with the plaintiff and proffers an opinion, unsupported by any reliable evidence, that the plaintiff is adjusting well to his surroundings, his community and his activities, all without a factual foundation and in violation of the terms of the policy.

14. Because this plaintiff has "Chronic Intractable Depression" this Court should review the record and afford the plaintiff immediate legal redress. Sanctions, costs and punitive damages should be awarded to the plaintiff.

COUNT I - BREACH OF CONTRACT

15. The plaintiff adopts the foregoing averments.

16. The plaintiff purchased a disability policy from the defendant and, as a consequence of a disability sustained by the plaintiff, initiated monthly disability benefit payments on or around October 31, 2011. The monthly benefit payments were unilaterally ceased on October 31, 2014.

17. The defendant wrongfully terminated said payments to the plaintiff claiming that the plaintiff was not "disabled" pursuant to the terms of the "Long Term Disability Policy."

18. The policy is a contract between the parties. In the instant case the policy is a contract of

adhesion, since the defendant, and the defendant alone, created the contract.

19. The adhesive contract in question was drafted by the defendant. It was presented to the plaintiff under circumstances in which the plaintiff harbored no realistic opportunity to negotiate its terms.

20. Agents employed by the defendant have used the adhesive nature of the contract to illegally, unfairly, inappropriately and negligently deny the plaintiff the rightful, lawful benefits he is otherwise entitled to under the terms of the policy.

21. The defendant has relied, to the substantial detriment of the plaintiff, on the uninformed and ill-advised opinion of a so-called expert, board certified, psychiatrist who illegally and negligently proffered an opinion that the plaintiff was not depressed suffering from "Chronic Intractable Depression."

22. The so-called expert opinion was offered despite the substantial evidence that the plaintiff had suffered this type of depression for twenty-five years. Incredibly, the "expert" also failed to take the time to interview the plaintiff in person and evaluate the "community" he presently lived in, the "activities" he "enjoyed" and the "work" he is compelled to perform as a condition of being in prison.

23. Prudential's reliance on the "expert" opinion was illegal, irrational and unlawful, exacerbated by the abject failure of the "expert" to personally interview the plaintiff in the prison environment at FMC Devens.

24. The plaintiff's depressive state has only worsened. It certainly has not been ameliorated by his incarceration.

25. The defendant knew or should have known by the exercise of due diligence that the plaintiff's "Chronic Intractable Depression" was further aggravated by his legal losses on

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each and every avenue of the appellate procedure followed in his case.

26. The plaintiff, as a direct consequence of the egregious breach of the adhesive contract prepared by the defendant, has suffered tremendous depression, conscious pain and suffering and an actual worsening of his depressive, mental state.

27. Considering the foregoing, this Court award treble damages, compensatory damages and punitive damages.

COUNT II - BREACH OF DUTY OF GOOD FAITH DEALING

28. The plaintiff adopts the foregoing averments.

29. The defendant owed the plaintiff a duty to act in good faith and to fairly deal with the plaintiff in any and all matters related to the interpretation of the disability policy in question. The defendant has breached that duty and caused considerable damage to the plaintiff.

30. The Disability Insurance Policy, in and of itself, is a contract of adhesion, drafted only by the defendant.

31. The contract in question, by its very nature, should be read in the light most favorable to the plaintiff since he never had an opportunity to negotiate it.

32. The defendant, its agents, employees and assigns wrongfully and negligently interpreted the insurance policy in a manner that prejudiced the plaintiff. His monthly disability benefits were terminated because they misinterpreted the policy.

33. The defendant was aware that the plaintiff suffered from acute, chronic intractable depression, and nonetheless, terminated the disability payments without just cause, in violation of the terms of the policy.

34. The defendant relied on the so-called expert opinion of an alleged board certified

psychiatrist who proffered an unsubstantiated opinion that the plaintiff was not in a chronic depressive state.

35. The overwhelming evidence in the matter clearly and unequivocally establishes that the plaintiff suffers from a major depressive disorder that has a material effect on the plaintiff's inability to perform most/all of the duties required of his own occupation.

36. The defendant is aware that the plaintiff has a 25-year history of chronic major depression that has only worsened with the passage of time, especially while he is incarcerated, awaiting the outcome of appeals which have all recently been denied.

37. Given the foregoing factual scenario, the plaintiff alleges that the defendant breached its duty of good faith and fair dealing that was owed to the plaintiff. In this matter, implicit in the preparation, sale and execution of the "long term disability policy" lies a covenant of good faith and fair dealing which the defendant breached, causing substantial damages to the plaintiff.

38. Because the policy is a contract of adhesion drafted by a national insurance carrier and because the plaintiff lacked any ability to negotiate any of the terms of the contract/policy with the defendant, the policy should be construed against the defendant and in favor of the plaintiff because the law imposes a strict covenant of good faith and fair dealing between the parties. The conduct of the defendant in terminating the monthly benefit payments is a clear breach of that condition and justifies an award of treble and punitive damages to send a message to other insurance carriers that such egregious misconduct will not be tolerated.

39. The plaintiff alleges that the contract in question must be performed. Contract liability in this case is strict liability. Indeed, PACTA SUNT SERUANDA, especially since the

Case 1:16-cv-00420-WES-PAS Document 1-2 Filed 07/29/16 Page 13 of 25 PageID #: 85

defendant actually paid the plaintiff disability benefits for approximately three years. The defendant's decision to terminate the disability payments was arbitrary, capricious and against public policy given the nature of the adhesive contract.

40. The defendant is liable for consequential damages. See Hadley v. Baxendale 9 EX 341 (Court of Exchequer)

41. The defendant is also liable to the plaintiff for treble damages and punitive damages. Treble damages are awarded when the Court finds the defendant, an insurance company, engaged in bad faith dealings with the plaintiff.

42. The Court can draw an inference, reasonable in nature, that the defendant's reliance on a so-called board certified expert, is patently negligent and unreasonable.

43. The expert never met, never talked to and never communicated with the plaintiff and drew conclusions that are unsubstantiated, unwarranted and negligent. Treble damages are therefore appropriate.

44. Punitive damages are relevant to "punish" a defendant and to send a message to other similarly situated defendants that conduct like this will not be tolerated and punished accordingly.

45. In the instant case, the defendant's conclusions are unsubstantiated, frivolous and disingenuous given their negligent reliance on a psychiatrist that has no basis in law or fact.

Accordingly, this Court should award consequential, treble and punitive damages to the plaintiff. This is especially true in a case like this where the defendant, for a protracted period of time, continued to make disability payments to the plaintiff. The condition of the plaintiff worsened over time and his physical and psychiatric records reflect that fact. There was no "change in circumstances" justifying the defendant in totally reversing course and terminating payments made to the plaintiff. Absent such a change, the defendant is in clear violation of the terms of the "adhesive contract" it prepared. The plaintiff paid timely premiums on the policy. the defendant egregiously breached the conditions of the policy. It now must be responsible for payment, damages or aforesaid, costs and fees.

Respectfully submitted,

/s/ Joseph A. Caramadre,
pro se

FMC Devens Mailing Address:
Joseph A. Caramadre, #08549-070 (Satellite Camp)
FMC Devens P.O. Box 879
Ayer, MA 01432

Home Mailing Address:
90 Beechwood Dr.
Cranston, RI 02921

Email Address:
joe@eprworld.com

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Exhibit 2

Exhibit 2

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
SUPERIOR COURT
PROVIDENCE COUNTY

JOSEPH A. CARAMADRE, Plaintiff, v. PRUDENTIAL INSURANCE COMPANY OF AMERICA, Defendant.	CIVIL ACTION FILE NO. PC-2016-3159

NOTICE OF FILING OF NOTICE OF REMOVAL

To:

Henry S. Kinch, Jr., Clerk
Licht Judicial Complex
250 Benefit Street
Providence, Rhode Island 02903

Joseph A. Caramadre, #08549-070
(Satellite Camp)
FMC Devens
P.O. Box 879
Ayer, MA 01432

Joseph A. Caramadre
(Home Address)
90 Beechwood Dr.
Cranston, RI 02921

PLEASE TAKE NOTICE THAT on July 29, 2016, pursuant to 28 U.S. §§ 1331, 1332, 1367, 1441 and 1446, Defendant The Prudential Insurance Company of America (incorrectly named as "Prudential Insurance Company of America) ("Prudential" or "Defendant"), filed a Notice of Removal, a copy of which is annexed hereto, removing the above-captioned action from the State of Rhode Island and Providence Plantations Superior Court of Providence County, to the United States District Court for the District of Rhode Island. You are also advised that Prudential, on filing the Notice of Removal in the office of the Clerk of the United States District

28182801v.1

Court for the District of Rhode Island, filed a copy thereof with the Clerk of the Providence County Superior Court to effect removal pursuant to 28 U.S.C. §§ 1441 and 1446.

DATED: July 29, 2016

Respectfully submitted,

By: */s/ Michael E. Jusczyk*

Michael E. Jusczyk
SEYFARTH SHAW LLP
Seaport East
Two Seaport Lane, Suite 300
Boston, MA 02210-2028
Telephone: (617) 946-4800
Facsimile: (617) 946-4801
Email: loconnor@seyfarth.com

Attorneys for the Defendant
THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA

CERTIFICATE OF SERVICE

I hereby certify that, on the 29th day of July, 2016, I filed this with the State of Rhode Island and Providence Plantations Superior Court of Providence County and served this document on Plaintiff through US mail at the following addresses:

Joseph A. Caramadre, #08549-070 (Satellite Camp)
FMC Devens
P.O. Box 879
Ayer, MA 01432

Joseph A. Caramadre
(Home Address)
90 Beechwood Dr.
Cranston, RI 02921

E-mail: joe@eprworld.com

/s/ Michael E. Jusczyk
Michael E. Jusczyk

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
SUPERIOR COURT
PROVIDENCE COUNTY

JOSEPH A. CARAMADRE, Plaintiff, v. PRUDENTIAL INSURANCE COMPANY OF AMERICA, Defendant.	CIVIL ACTION FILE NO. PC-2016-3159

NOTICE OF FILING OF NOTICE OF REMOVAL

To:

Henry S. Kinch, Jr., Clerk
Licht Judicial Complex
250 Benefit Street
Providence, Rhode Island 02903

Joseph A. Caramadre, #08549-070
(Satellite Camp)
FMC Devens
P.O. Box 879
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90 Beechwood Dr.
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Court for the District of Rhode Island, filed a copy thereof with the Clerk of the Providence County Superior Court to effect removal pursuant to 28 U.S.C. §§ 1441 and 1446.

DATED: July 29, 2016

Respectfully submitted,

By: */s/ Michael E. Jusczyk*

Michael E. Jusczyk
SEYFARTH SHAW LLP
Seaport East
Two Seaport Lane, Suite 300
Boston, MA 02210-2028
Telephone: (617) 946-4800
Facsimile: (617) 946-4801
Email: mjusczyk@seyfarth.com

Attorneys for the Defendant
THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

CERTIFICATE OF SERVICE

I hereby certify that, on the 29th day of July, 2016, I filed this with the State of Rhode Island and Providence Plantations Superior Court of Providence County and served this document on Plaintiff through US mail at the following addresses:

Joseph A. Caramadre, #08549-070 (Satellite Camp)
FMC Devens
P.O. Box 879
Ayer, MA 01432

Joseph A. Caramadre
(Home Address)
90 Beechwood Dr.
Cranston, RI 02921

E-mail: joe@eprworld.com

/s/ Michael E. Jusczyk
Michael E. Jusczyk

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
SUPERIOR COURT
PROVIDENCE COUNTY

JOSEPH A. CARAMADRE, Plaintiff, v. PRUDENTIAL INSURANCE COMPANY OF AMERICA, Defendant.	CIVIL ACTION FILE NO. PC-2016-3159

NOTICE OF APPEARANCE

Kindly enter the appearance of Michael E. Jusczyk of Seyfarth Shaw LLP, Two Seaport Lane, Suite 300, Boston, MA 02110, as counsel for Defendant The Prudential Insurance Company of America (incorrectly named as "Prudential Insurance Company of America), in connection with the above-captioned action

Respectfully submitted,

By: */s/ Michael E. Jusczyk*
Michael E. Jusczyk (#7791)
mjusczyk@seyfarth.com

SEYFARTH SHAW LLP
Seaport East
Two Seaport Lane, Suite 300
Boston, MA 02210-2028
Telephone: (617) 946-8343
Facsimile: (617) 946-4801

ATTORNEY FOR DEFENDANT THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

DATED: July 29, 2016

28272239v.1

CERTIFICATE OF SERVICE

I, Michael E. Jusczyk, counsel for defendant The Prudential Insurance Company of America (incorrectly named as "Prudential Insurance Company of America") certify that on July 29, 2016, I served a true copy of this pleading via electronic service upon the persons and attorneys of record. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System. I further certify that I served this document on Plaintiff through US mail at the following addresses:

Joseph A. Caramadre, #08549-070 (Satellite Camp)
FMC Devens
P.O. Box 879
Ayer, MA 01432

Joseph A. Caramadre
(Home Address)
90 Beechwood Dr.
Cranston, RI 02921

E-mail: joe@eprworld.com

/s/ Michael E. Jusczyk
Michael E. Jusczyk

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1. Article Addressed to:

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C/o Margaret Foran
751 ~~Bo~~ Broad Street
Newark, NJ 07102

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2. Article Number *(Transfer from service label)*

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B. Received by *(Printed Name)* Christine Gillen

C. Date of Delivery 7-14-16

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

SUMMONS

	Civil Action File Number PC-2016-3159
Plaintiff Joseph A Caramadre v. **Defendant** Prudential Insurance Company Of America	**Attorney for the Plaintiff or the Plaintiff** Joseph A Caramadre **Address of the Plaintiff's Attorney or the Plaintiff** 90 BEECHWOOD DR CRANSTON RI 02921
Licht Judicial Complex Providence/Bristol County 250 Benefit Street Providence RI 02903 (401) 222-3250	**Address of the Defendant** 751 Broad Street Attention Margaret Foran Newark NJ 07102

TO THE DEFENDANT, Prudential Insurance Company of America:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 7/7/2016.	/s/ Henry Kinch Clerk

Witness the seal/watermark of the Superior Court

SC-CMS-1 (revised July 2014)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

Plaintiff Joseph A Caramadre v. **Defendant** Prudential Insurance Company Of America	**Civil Action File Number** PC-2016-3159

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, Prudential Insurance Company of America, by delivering or leaving said papers in the following manner:

☐ With the Defendant personally.

☐ At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person of suitable age and discretion ____________________
Address of dwelling house or usual place of abode ____________________
____
Age ____________
Relationship to the Defendant ____________________

☐ With an agent authorized by appointment or by law to receive service of process.
Name of authorized agent ____________________
If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.
____

☐ With a guardian or conservator of the Defendant.
Name of person and designation ____________________

☐ By delivering said papers to the attorney general or an assistant attorney general if serving the state.

☐ Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.
Name of person and designation ____________________

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.
Name of person and designation ___________________________

☐ By leaving said papers at the office of the corporation with a person employed therein.
Name of person and designation ___________________________

☐ By delivering said papers to an agent authorized by appointment or by law to receive service of process.
Name of authorized agent ___________________________
If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.
____

☐ I was unable to make service after the following reasonable attempts: ___________________________
____

SERVICE DATE: ______/______/______ Month Day Year	SERVICE FEE $______________

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

____
Signature

State of ______________________
County of ______________________

On this ________ day of ________________, 20____, before me, the undersigned notary public, personally appeared ___________________________ ☐ personally known to the notary or ☐ proved to the notary through satisfactory evidence of identification, which was ___________________________, to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: ___________________________
My commission expires: ___________________________
Notary identification number: ___________________________

SC-CMS-1 (revised July 2014)

SC-CMS-1 (revised July 2014)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS SUPERIOR COURT-PROVIDENCE COUNTY

Joseph A. Caramadre, Plaintiff	)
	)
v.	)
	)
Prudential Insurance Company of America, Defendant	)

COMPLAINT

PARTIES, VENUE AND JURISDICTION

1. The plaintiff, Joseph A. Caramadre, has his domicile at Beechwood Drive, Cranston, R.I. He is presently a resident at FMC Devens, Ayer, MA. He is presently an inmate appealing his conviction and sentence, presently pending before the court. He has presented valid claims to prove his innocence.
2. The defendant is Prudential Insurance Company (Prudential). The company, in part, underwrites and sells "long term disability insurance policies" from its office in Philadelphia, PA.
3. Jurisdiction is appropriate in this Court because Prudential has corporate offices in the state of Rhode Island, does business in this state, and therefore has the requisite minimum contacts under relevant sections of the Rhode Island Long Arm Statutes and the amount exceeds $10,000.

BACKGROUND

4. The plaintiff is the named insured in a long term disability policy issued and underwritten by the defendant, Prudential Insurance Company of America.
5. The plaintiff was a practicing attorney and certified public accountant. Over the course

of 25 years he engaged in a course of charitable and philanthropic activity that benefit about 70 charitable organizations and a multitude of other people. This activity lead to the plaintiff to being recognized as a humanitarian and philanthropist by charitable organizations.

6. The plaintiff is married and has three children whose residence is on Beechwood Drive, Cranston, R.I. His wife of 25 years is being directly and adversely impacted by the actions of the defendant in this case.
7. As a consequence of a criminal litigation initiated against him in the United States District Court in Rhode Island, the plaintiff received a sentence of 72 months and 3 years of supervised release. He filed a timely claim of appeal and continues to protest his innocence. Although the First Circuit of Appeals denied his original appeal and, subsequently, an en banc request for reconsideration, the plaintiff also filed a writ of certiorari to the United States Supreme Court. Although that Court, denied his writ, the plaintiff, through his counsel, is presently preparing and researching, a writ of Habeas Corpus pursuant to the provisions of Title 28, Section 2255, and 28 USC 2241.
8. The defendant issued a long term disability income policy to the plaintiff. In exchange, the plaintiff paid the timely premiums associated with the policy. In 2011, the plaintiff became disabled. The plaintiff submitted a claim for monthly disability benefits. After researching the claim, the defendant, concluded that the plaintiff's illness was within the parameters defined in their policy and approved the plaintiff for full disability benefits, and began paying the plaintiff the $2,000 monthly benefit on or around October 31, 2011, pursuant to its policy terms.
9. This complaint deals with the failure of the defendant to pay the plaintiff pursuant to the

terms of the policy and its breach of the policy terms on or around October 31, 2014, the date the defendant stopped paying the plaintiff disability benefits.

10. Because there was a material change in circumstances relative to the medical, physical and emotional condition of the plaintiff, this Court should redress the egregious violations of the terms of the contract and award the plaintiff not only compensatory damages, but also punitive damages. The defendant agreed to pay the plaintiff the disability benefits specified in the policy and did so from approximately October 31, 2011 to October 31, 2014. Their justification for non-payment has absolutely no foundation in law or, in the facts of this case. Indeed, subsequent events only tend to exacerbate the plaintiff's fragile emotional and depressive state.

11. The record in the instant case establishes that the plaintiff received medical and psychiatric care for "Chronic Intractable Depression" with Dr. James Kennedy, M.D. at FMC Devens Camp from January 21, 2014 through presently. (For some inexplicable reason the defendant referred to the doctor as Paul Kennedy, M.D. No such doctor/psychiatrist practices at FMC Devens.)

12. During the foregoing dates the Major Depressive Disorder suffered by the plaintiff did not dissipate, it worsened. One of the more simple and reasonable conclusions is the following: Initially, during the initial assessment on January 21, 2014, the plaintiff was diagnosed with severe depression. However, he expressed hope in his nationally recognized appellate attorneys, since he had informed plaintiff that "He had a very strong case to win the appeal." This did not happen. Again continued meetings with the doctor revealed that, although severely depressed, the plaintiff had a glimmer of hope that his attorney's favorable assessment of his appeal case could result in the plaintiff clearing his

name. After months of waiting, finally on December 7, 2015, the appeals court denied the plaintiff's appeal. This action significantly and substantially contributed to this "Chronic Intractable Depression." Indeed, it aggravated it to a significant degree simply because it served to extinguish hope that he would shortly return to his caring, loving and totally supportive family.

13. The defendant, knowing this, simply ignores it. Instead, they retain the services of an unknown and unidentified "Board Certified" physician. Remarkably, contrary to acceptable medical and psychiatric standards, this "psychiatric reviewer" never even met with the plaintiff and proffers an opinion, unsupported by any reliable evidence, that the plaintiff is adjusting well to his surroundings, his community and his activities, all without a factual foundation and in violation of the terms of the policy.

14. Because this plaintiff has "Chronic Intractable Depression" this Court should review the record and afford the plaintiff immediate legal redress. Sanctions, costs and punitive damages should be awarded to the plaintiff.

COUNT I - BREACH OF CONTRACT

15. The plaintiff adopts the foregoing averments.

16. The plaintiff purchased a disability policy from the defendant and, as a consequence of a disability sustained by the plaintiff, initiated monthly disability benefit payments on or around October 31, 2011. The monthly benefit payments were unilaterally ceased on October 31, 2014.

17. The defendant wrongfully terminated said payments to the plaintiff claiming that the plaintiff was not "disabled" pursuant to the terms of the "Long Term Disability Policy."

18. The policy is a contract between the parties. In the instant case the policy is a contract of

adhesion, since the defendant, and the defendant alone, created the contract.

19. The adhesive contract in question was drafted by the defendant. It was presented to the plaintiff under circumstances in which the plaintiff harbored no realistic opportunity to negotiate its terms.

20. Agents employed by the defendant have used the adhesive nature of the contract to illegally, unfairly, inappropriately and negligently deny the plaintiff the rightful, lawful benefits he is otherwise entitled to under the terms of the policy.

21. The defendant has relied, to the substantial detriment of the plaintiff, on the uninformed and ill-advised opinion of a so-called expert, board certified, psychiatrist who illegally and negligently proffered an opinion that the plaintiff was not depressed suffering from "Chronic Intractable Depression."

22. The so-called expert opinion was offered despite the substantial evidence that the plaintiff had suffered this type of depression for twenty-five years. Incredibly, the "expert" also failed to take the time to interview the plaintiff in person and evaluate the "community" he presently lived in, the "activities" he "enjoyed" and the "work" he is compelled to perform as a condition of being in prison.

23. Prudential's reliance on the "expert" opinion was illegal, irrational and unlawful, exacerbated by the abject failure of the "expert" to personally interview the plaintiff in the prison environment at FMC Devens.

24. The plaintiff's depressive state has only worsened. It certainly has not been ameliorated by his incarceration.

25. The defendant knew or should have known by the exercise of due diligence that the plaintiff's "Chronic Intractable Depression" was further aggravated by his legal losses on

each and every avenue of the appellate procedure followed in his case.

26. The plaintiff, as a direct consequence of the egregious breach of the adhesive contract prepared by the defendant, has suffered tremendous depression, conscious pain and suffering and an actual worsening of his depressive, mental state.

27. Considering the foregoing, this Court award treble damages, compensatory damages and punitive damages.

COUNT II - BREACH OF DUTY OF GOOD FAITH DEALING

28. The plaintiff adopts the foregoing averments.

29. The defendant owed the plaintiff a duty to act in good faith and to fairly deal with the plaintiff in any and all matters related to the interpretation of the disability policy in question. The defendant has breached that duty and caused considerable damage to the plaintiff.

30. The Disability Insurance Policy, in and of itself, is a contract of adhesion, drafted only by the defendant.

31. The contract in question, by its very nature, should be read in the light most favorable to the plaintiff since he never had an opportunity to negotiate it.

32. The defendant, its agents, employees and assigns wrongfully and negligently interpreted the insurance policy in a manner that prejudiced the plaintiff. His monthly disability benefits were terminated because they misinterpreted the policy.

33. The defendant was aware that the plaintiff suffered from acute, chronic intractable depression, and nonetheless, terminated the disability payments without just cause, in violation of the terms of the policy.

34. The defendant relied on the so-called expert opinion of an alleged board certified

psychiatrist who proffered an unsubstantiated opinion that the plaintiff was not in a chronic depressive state.

35. The overwhelming evidence in the matter clearly and unequivocally establishes that the plaintiff suffers from a major depressive disorder that has a material effect on the plaintiff's inability to perform most/all of the duties required of his own occupation.

36. The defendant is aware that the plaintiff has a 25-year history of chronic major depression that has only worsened with the passage of time, especially while he is incarcerated, awaiting the outcome of appeals which have all recently been denied.

37. Given the foregoing factual scenario, the plaintiff alleges that the defendant breached its duty of good faith and fair dealing that was owed to the plaintiff. In this matter, implicit in the preparation, sale and execution of the "long term disability policy" lies a covenant of good faith and fair dealing which the defendant breached, causing substantial damages to the plaintiff.

38. Because the policy is a contract of adhesion drafted by a national insurance carrier and because the plaintiff lacked any ability to negotiate any of the terms of the contract/policy with the defendant, the policy should be construed against the defendant and in favor of the plaintiff because the law imposes a strict covenant of good faith and fair dealing between the parties. The conduct of the defendant in terminating the monthly benefit payments is a clear breach of that condition and justifies an award of treble and punitive damages to send a message to other insurance carriers that such egregious misconduct will not be tolerated.

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40. The defendant is liable for consequential damages. See Hadley v. Baxendale 9 EX 341 (Court of Exchequer)
41. The defendant is also liable to the plaintiff for treble damages and punitive damages. Treble damages are awarded when the Court finds the defendant, an insurance company, engaged in bad faith dealings with the plaintiff.
42. The Court can draw an inference, reasonable in nature, that the defendant's reliance on a so-called board certified expert, is patently negligent and unreasonable.
43. The expert never met, never talked to and never communicated with the plaintiff and drew conclusions that are unsubstantiated, unwarranted and negligent. Treble damages are therefore appropriate.
44. Punitive damages are relevant to "punish" a defendant and to send a message to other similarly situated defendants that conduct like this will not be tolerated and punished accordingly.
45. In the instant case, the defendant's conclusions are unsubstantiated, frivolous and disingenuous given their negligent reliance on a psychiatrist that has no basis in law or fact.

Accordingly, this Court should award consequential, treble and punitive damages to the plaintiff. This is especially true in a case like this where the defendant, for a protracted period of time, continued to make disability payments to the plaintiff. The condition of the plaintiff worsened over time and his physical and psychiatric records reflect that fact. There was no "change in circumstances" justifying the defendant in totally reversing course and terminating payments made to the plaintiff. Absent such a change, the defendant is in clear violation of the terms of the "adhesive contract" it prepared. The plaintiff paid timely premiums on the policy. the defendant egregiously breached the conditions of the policy. It now must be responsible for payment, damages or aforesaid, costs and fees.

Respectfully submitted,

/s/ Joseph A. Caramadre,
pro se

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

SUMMONS

	Civil Action File Number PC-2016-3159
Plaintiff Joseph A Caramadre v. **Defendant** Prudential Insurance Company Of America	**Attorney for the Plaintiff or the Plaintiff** Joseph A Caramadre **Address of the Plaintiff's Attorney or the Plaintiff** 90 BEECHWOOD DR CRANSTON RI 02921
Licht Judicial Complex Providence/Bristol County 250 Benefit Street Providence RI 02903 (401) 222-3250	**Address of the Defendant** 751 Broad Street Attention Margaret Farau Newark NJ 07102

TO THE DEFENDANT, Prudential Insurance Company of America:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 7/7/2016.	/s/ Henry Kinch Clerk

Witness the seal/watermark of the Superior Court

SC-CMS-1 (revised July 2014)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

Plaintiff Joseph A Caramadre v. **Defendant** Prudential Insurance Company Of America	**Civil Action File Number** PC-2016-3159

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, Prudential Insurance Company of America, by delivering or leaving said papers in the following manner:

☐ With the Defendant personally.

☐ At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person of suitable age and discretion ______________________________
Address of dwelling house or usual place of abode ______________________________
____
Age ____________
Relationship to the Defendant ______________________________

☐ With an agent authorized by appointment or by law to receive service of process.
Name of authorized agent ______________________________
If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.
____

☐ With a guardian or conservator of the Defendant.
Name of person and designation ______________________________

☐ By delivering said papers to the attorney general or an assistant attorney general if serving the state.

☐ Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.
Name of person and designation ______________________________

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.
Name of person and designation ______________________________

☐ By leaving said papers at the office of the corporation with a person employed therein.
Name of person and designation ______________________________

☐ By delivering said papers to an agent authorized by appointment or by law to receive service of process.
Name of authorized agent ______________________________
If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.
____

☐ I was unable to make service after the following reasonable attempts: ______________________________
____

SERVICE DATE: ______/______/______
Month Day Year

SERVICE FEE $______________

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

____
Signature

State of ______________________
County of ______________________

On this ________ day of ________________, 20____, before me, the undersigned notary public, personally appeared ______________________________ ☐ personally known to the notary or ☐ proved to the notary through satisfactory evidence of identification, which was ______________________________, to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: ______________________________
My commission expires: ______________________________
Notary identification number: ______________________________

SC-CMS-1 (revised July 2014)

SC-CMS-1 (revised July 2014)